

THE *John J. Smith*

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Counsel understands that the Defendant is in custody now. The motion acknowledges that Defendant was convicted by military court-martial and is serving a

sentence in a military prison within another district. Counsel understands that Defendant, who was represented in part by the same private attorney who represented him in this Court, entered a guilty plea to those charges.¹ But counsel does not know whether Defendant simply waived the arguments that he seeks to raise now or whether he raised them unsuccessfully in the military proceedings, and whether Defendant's guilty plea eliminates his ability to pursue them any further in the military appellate process.


But in any event, Defendant's recourse is not a further proceeding in this court, which has no continuing jurisdiction of either the prosecution or the Defendant's person. And the mootness of any further proceeding in this Court, also moots any question of appointment of counsel. See 18 U.S.C. § 3006A(a).

¹At pages 2-3 of his motion, the Defendant alleges that he faced a maximum sentence in this Court of 4 years. He is wrong. Apparently he is referring to a calculation that someone made under the federal sentencing guidelines. The maximum penalty under 18 U.S.C. § 2423(a) was 15 years.

Accordingly, Defendant's Motion for Appointment of Counsel or \$2,480 For Attorneys' Fees should be denied.

Respectfully submitted, this 27th day of April, 2005.

MAXWELL WOOD
UNITED STATES ATTORNEY

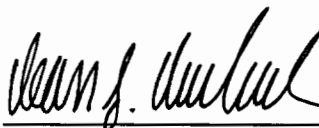
BY: 
DEAN S. DASKAL
ASSISTANT UNITED STATES ATTORNEY
GEORGIA BAR NO. 205715

CERTIFICATE OF SERVICE

This is to certify that I have this date served the within and foregoing
GOVERNMENT'S RESPONSE TO DEFENDANT'S MOTION FOR APPOINTMENT OF
COUNSEL upon defendant by first class mail, postage prepaid, addressed as follows:

RICARDO KIOWA GONZALES #77558
1300 N. WAREHOUSE ROAD
FT. LEAVENWORTH, KS 66027

This 27th day of April, 2005.



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